

South Africa in Africa: Promoting Constitutionalism in Southern Africa, 1994 - 2004

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Abstract

This chapter argues that South Africa's Africa policy is anchored in the belief that its transitional arrangements, namely, an accommodative and inclusive constitution, national reconciliation, and power guarantee peace and security. This was evident in its response in Lesotho and Zimbabwe's economic and political crises in the mid 1990s and early 2000s. South Africa's foreign policy limitations are highlighted in the Zimbabwean case study. South Africa's quest for promoting constitutionalism remains a challenging task. It is in this context that Pretoria's Africa policy is centered in and guided by African multilateral structures and programs such as the African Union (AU) and the New Partnership for Africa's Development (Nepad).

“The question of the role of South Africa in the continent will always come up, and will have to be addressed with courage and humility. South Africa, objectively, has the characteristic of a middle – power, which are: (a) a comparatively strong military; (b) a comparatively strong and dominant economic base; (c) fiscal stability; (d) relative social and political stability; and (e) a government that has effective control over its territory and borders. However, in order for South Africa to play a role in the continent, the country will need to go beyond the will and start addressing its capacity to exercise such a role”.²

Introduction

The founding leaders of post-apartheid South Africa’s democracy enthusiastically seized the opportunity of promoting a culture of constitutionalism at home and abroad. As shown by the final product of protracted negotiations, the South African constitution stands as one of the best in the world today. There is no doubt that the molders of this constitution believed in promoting a culture of constitutionalism, sustainable democracy, peace, continuous development, and stability for South Africa and the continent. South Africa’s transition occurred at a critical moment, where the cold war was in its dying stages and there was rising hope for the spread of democracy across the world. It is in this context that South Africa entered the family of nations in 1994, as both a strong believer and champion of constitutional democracy and the rule of law. This meant that the postapartheid South Africa was founded on,

“The belief system of government, laws and principles according to which a state is governed, controlled or limited by the constitution”.³

² Special 51st National Conference Edition, UMRABULO, African National Congress (ANC), Volume 16, August 2002, pp. 100

³ Oxford Advanced Learner’s Dictionary, **Oxford University Press**, 1974, London, pp. 182

In this short contribution, we look at how South Africa in its first decade of freedom 1994 - 2004, has attempted to extend the entrenched culture of constitutionalism at home in its Africa policy, particularly within the Southern African subregion. We shall pay special attention on South Africa's Africa policy, and specifically focus on its interventions in Lesotho and Zimbabwe during mid 1990s and early 2000.

South Africa's foreign policy evolved gradually in its approach to African issues from Nelson Mandela to Thabo Mbeki in the period 1994 to 2004. While there were no fundamental shifts in foreign policy from Mandela to Mbeki, there was however, a wide and visible gap in their focus, strategy, style, and indeed tactic towards matters concerning the African continent. There was also a sense of division of labor thus Mandela concentrated on the fundamental question of internal (South Africa) nation-building, while Mbeki championed the same initiatives continentally. Therefore the arguments that South Africa was reluctant to play a leading role in Africa during Mandela's rule, fail to appreciate let alone, understand the strength and weaknesses of both leaders. In short, President Mandela 1994 - 1999 focussed extensively on nation-building projects; such as the consolidation of the peaceful transitional arrangements, constitutionalism, reconciliation process, Reconstruction and Development Program (RDP), and a smooth re-entry of South Africa to the family of nations. On the other hand, President Thabo Mbeki creatively extended Mandela's domestic projects in Africa. This can be seen in Mbeki's led foreign policy vision of an African renaissance and the New Partnership for Africa's Development Programme (Nepad) which to a larger extent has propelled and positioned South Africa as an emerging leader in Africa.

The postapartheid South Africa's foreign policy-makers realised that their success in peace building initiatives in the southern African region depends on

their country's foreign policy to align itself with regional and continental institutions' objectives. South Africa's Africa policy relied heavily on regional multilateral structures to create a harmonious relationship between and among member states. The main reason for taking such an approach was because South Africa believed that regional democratic norms and values were critical to peace and security. For the African National Congress (ANC) the governing party,

“There are two ways that South Africa can meaningfully contribute to the African renaissance: (a) it can “bully” others, whether they like it or not; or (b) it can work through existing continental, multilateral structures to advance and support the defense of progressive principles and ideals that have collectively been agreed to. It is the latter role that South Africa will have to consider; deploy its resources and political experience to advance and accelerate the implementation of the African Union and NEPAD. The realization of Africa's renaissance will be difficult to achieve without South Africa's commitment to play its role in the continent” .⁴

1. Origin of the Politics of Constitutionalism

The notion of constitutionalism in international relations can be traced from numerous scholars. Contemporary scholars draw much of their understanding of constitutionalism from Immanuel Kant's Perpetual Peace (1795), Adam Smith's Wealth of Nations 1776, and Hugo Grotius' writings in the first half of 17th century. The basic tenets of these scholars' writings posit that liberal democracy, democratic peace, liberal peace is the best form of governance. The rule of law as defined by the liberal democratic constitution and more importantly, the strict practice thereof brings a culture of constitutionalism. The constitution becomes the supreme law of the land that provide much wider freedom and the political space to determine how the individual which to be governed. Furthermore, the constitution gives an appropriate environment in which private property is

⁴ Ibid.

guaranteed and protected. Therefore, the practice of constitutionalism separates powers in a way that accommodates marginal communities in multiracial and multiethnic communities.

The rule of law according to these scholars must and should be a prerequisite or precondition for sustaining peace, stability, and development. Additionally, it is the view of this school of thought that *“constitutional democracies do not fight one another; that they favor creating interdependent economic links with one another and that they collaborate well in international organization – whose tasks range from the adjudication of global disputes to military alliances”*.⁵ Larry Diamond states that *“the key shapers of democratic political thought have held that the best realizable form of government is mixed, or constitutional government, in which freedom is constrained by the rule of law and popular sovereignty is tempered by state institutions that produce order and stability.”*⁶ Diamond argues that the system of democratic government inherently fosters constitutionalism within its mechanisms. It encourages, *“peaceful conflict resolution within their societies”*. The notion of constitutionalism has taken a centre in the post cold global order. Increasingly, there is a core relation between the practice of constitutionalism and good governance⁷ in international relations.

There were two global factors in the 1990s that encouraged the rise of a culture of constitutionalism as a key force in international relations. First, the fall of the

⁵ Tony Smith, America Democracy Promotion Abroad and the War in Iraq, Paper presented at the Kyoto American Summer Seminar hosted by Ritsumeikan University, Kyoto, Japan, July 2003, and published by the University’s American Center as a working paper.

⁶ Larry Diamond, **Developing Democracy: Toward Consolidation**, The Johns Hopkins University Press, Baltimore and London, 1999, pp. 2

⁷ In general, South Africa meets most of the United Nations Development Programmes’ (UNDP) criteria for good governance, thus; *“It is the exercise of political, economic, and administrative authority to manage a nation’s affairs. Some of the ingredients of democratic governance include: (a) human rights and democracy; (b) rule of law; (c) public accountability and transparency; (d) free and independent press; (e) decentralization; (f) vibrant civil society and robust private sector and (g) political stability, peace and security.*

Berlin Wall in 1989 opened up the 'iron curtain' in Europe signaling not only the end of the cold war, but the victory of the grass root masses against dictatorial form of governance either aided by the U.S. or the Soviet Union. Second, the global support for multilateralism expressed by the international community's endorsement of the U.S. led coalition against Saddam Hussein's invasion of the sovereign state of Kuwait in the early 1990s. These global developments strengthened the hand of democratic forces against the apartheid regime in South Africa. Across the breath and length of the southern African subregion, and the entire Sub Sahara Africa, ordinary people demonstrated their unwillingness to be governed by dictators such as Mobutu Sese Seko of Zaire and Kamuzu Banda of Malawi. This global mood which swept across the world in favor of constitutional democracy at the end of the cold war, was fully appreciated by South Africa's foreign policy - makers. However, South Africa's foreign policy-makers realized that without a foreign policy vision and a proactive Africa policy, it would be hard to build shared democratic norms and values in the southern African subregion and the rest of the continent. In this context, what were the colonial legacies that the African continent confronted?

2.1. Africa's Colonial Legacy

There are various reasons why African societies and governments in the post colonial and cold war era are battling to build sustainable and viable nations. Since their inceptions, African states were by and large formed before the formation of coherent 'nation-states'. They are by-products of colonial powers. The nature and character of these states as we know them today was conceived at European colonialists' conference in Berlin in 1885. As a result of this colonial scheme, Africans were divided in ways that created endless political challenges. First, the European colonial powers paid little attention to the ethnic, culture, language, and geographic complexities of the people they regarded as their

subjects. Second, the nature of the economy that largely served few colonial settlers in urban areas and their mother countries, created a wide gap between Africans residing in urban and rural areas. These inequalities within and among most states in Africa continued to the post colonial era. It has also provided a conflictual environment as sidelined communities struggle to access their share of the tiny national cake. In some instances the political elite exploit the racial, ethnic, and religious inequalities to wage civil wars without a clear cause or ideology. The Rwandan genocide and other conflicts in the Democratic Republic of Congo (DRC), Burundi, Lesotho, Angola, Comoros, and Zimbabwe are classical examples. In all of the above mentioned countries, constitutions were either written at the time of independence or endlessly amended to favor a particular of group of society such as the governing elites.

3. The Rise and Consolidation of Constitutionalism in South Africa 1990 -1996

The historical events leading to the release of Nelson Mandela in 1990 from Robben Island opened up space for major debates between the African National Congress (ANC) and the apartheid regime which had entered into negotiations. Despite the vast racial, ethnic, cultural, class and ideological differences, they all agreed on the critical need to write a constitution that will govern the country's polity. This exercise was carried out in the most transparent and democratic fashion. First, they ensured that the power of the armed forces in the post-apartheid South Africa will be under the principle of civil supremacy. Unlike before, under the old apartheid constitution, the new constitution clearly delineated and separated powers within and among three branches; the executive, judiciary, and legislative.

South Africa was declared in the new constitution as that which 'belonged to all who lived in it, both black and white' a dream found in the liberation charter called the Freedom Charter of 1955. All apartheid inspired discriminative laws that discriminated on race, gender, religion; creed, ethnicity, and sexual orientation were repelled. Access to state power was no longer limited to the white minority group but accessible to all South Africans. The same can be said about other freedoms limited under apartheid such as association, speech, movement, accommodation, employment, as well as dignity.

In the spirit of individual and group rights, the country adopted eleven official languages. This move accommodated the notable as well as minority ethnic groups in South Africa. Through political compromises the framers of the democratic constitution adopted what was labeled "Sunset Clauses" to accommodate the fears of the White minority employed by the government. Basically, sunset clauses allowed the whole white old guard in government and parastatals to maintain their jobs and pension funds. Furthermore, the Truth and Reconciliation Commission (TRC) was instituted to encourage former perpetrators of political violence to confess their heinous acts before members of the civil society under the leadership of Archbishop Desmond Tutu. These TRC hearings were held across the country in a more transparent fashion allowing a wider audience and receiving publicity on national televisions and newspapers. The perpetrators were given an opportunity to confront their victims and their relatives to first understand what their grievances were, secondly, to explain their deeds and lastly to ask for forgiveness. The main objective of such exercises was to heal the wounds of the past and try to bring the atrocious acts of violence in defense of either the apartheid government or the liberation struggle movements to a closure.

These national arrangements enabled the country to deal decisively with its dark past as well as to pave a more promising future for its people. The practice of constitutionalism became the central organizational basis of the country's politics of nation building under Nelson Mandela. Regardless, of the monumental challenges confronted by the Thabo Mbeki government, such as the skyrocketing HIV/AIDS pandemic, unemployment, lack of housing, education, and crime, South Africa's future looks bright. Through dedication and hard work, South Africa has learned that constitutionalism forms the basis for sustainable peace and security.

3.1. Postapartheid South Africa's Africa Policy

South Africa's Africa policy can be summed up as one that is based on a belief,

"That the future of South Africa is inextricably linked to the future of the African continent and that of our neighbors in southern Africa".⁸

This policy,

"Rest on three pillars: Strengthening Africa's institutions continentally and regionally vis-à-vis the African Union (AU) and the Southern African Development Community (SADC); Supporting the implementation of Africa's socio-economic development programme, the New Partnership for Africa's Development (NEPAD); and, Strengthening bilateral political and socio-economic relations by way of effective structure for a dialogue and co-operation".⁹

⁸ SA Department Foreign Affairs' Strategic Plan 2005-2008, at <http://www.dfa.gov.za/departement/stratplan05-08.pdf>.

⁹ *Ibid.*

The governing party, African National Congress (ANC) embraced democracy and human rights in its foreign policy.¹⁰ In its foreign policy document the ANC stated that it was guided by the,

“Belief that just and lasting solutions to the problems of human kind can only come through the promotion of democracy, worldwide...A belief that our foreign policy relations must mirror our deep commitment to the consolidation of a democratic South Africa”.¹¹

For a nation emerging from apartheid, the determination to consolidate democracy at home and abroad was uppermost in the minds of the South African political leadership. However, the country’s apartheid history of coercive hegemonic tendencies in the region was widely perceived as an obstacle in rekindling new partnerships with neighboring countries. The establishment of a liberal ethos of interstate rules, norms and values of engagement with fellow states in the region became a priority. The ANC was also cognizant of the potential negative perceptions that this would exacerbate. Promoting democracy throughout the region would, in some instances, undercut the principles of territorial sovereignty and Pan-African solidarity. Acknowledging that,

“These differing points of views understandably generate tensions. Our hope is that this can be creatively settled within recognized regional and international fora.”¹²

Over the years, as these interests have competed in foreign policy, the multiple elite voices coalescing around decision-making have guaranteed a tenuous, but manageable balance among them. Marie Muller argues that,

¹⁰ ‘Ready to Govern: The ANC Policy Guidelines for a Democratic South Africa Adopted at the National Conference, May 28-31, 1992’ (Johannesburg: ANC Documents). See also ‘Foreign Policy in a New Democratic South Africa: A Discussion Paper, Foreign Policy Belongs to South Africa’s People,’ (1993); and ‘Foreign Policy Perspectives for a Democratic South Africa’ (1994).

¹¹ Ibid.

¹² Ibid.

“Relations with one’s neighbors are usually most immediate as these will have a direct effect on how a country is otherwise able to function in the international community.”¹³

It is in this context that South Africa started to think carefully about finding creative means to encourage the democratization and acceptance of the culture of constitutionalism in Southern African countries. Addressing the Bruno Kreisky Forum in Vienna, in 1995, the then Deputy President of South Africa Thabo Mbeki said that southern Africa had to be “*transformed*” into “a zone of peace” by “*building stable democratic systems.*”¹⁴

South Africa’s Soft Power & its role in promoting constitutionalism in the Southern African subregion

The ability of the global or regional power to influence the actions and inactions of fellow states without relying on *coercion* or “*hegemonic power*” can best be explained as ‘*Soft Power*’. In his classical book, Joseph S. Nye described, “*soft power*” in the following fashion,

“A country may obtain the outcomes it wants in world politics because other countries want to follow it, admiring its values, emulating its examples, aspiring to its level of prosperity and openness...This aspect of power – getting others to want what you want”.¹⁵

Such a country has the ability to co-opt other people instead of coercing them as was the case in the era of the Roman hegemony or 19th century’s Pax –Britannica epoch in international relations. In yet another article, Nye argued that the,

¹³ Muller, Marie E. (1992). South Africa and Its Regional Neighbors: Policy Options for Regional Cooperation, in: Venter, Albert J. (Ed.) (1992). Foreign Policy Issues in a Democratic South Africa. Johannesburg: Professors World Peace Academy, p. 75.

¹⁴ Chris Landsberg, Promoting Democracy: The Mandela-Mbeki Doctrine, in Journal of Democracy, Volume 11, Number 3, July 2000, pp. 109.

¹⁵ *Ibid*, Nye, Joseph. (2002), p. 9-10.

*"The lessons of the 1930s indicate that if the strongest state does not lead, prospects for instability increase"*¹⁶.

This is particularly true when one critically looks at Africa's international relations. According to Claude Ake,

"Most (transitions in Africa) have turned out to be false starts; the democratization has often been shallow...But the pressures for democratization are so strong that for most of Africa it is no longer a question of whether there will be a democratic transition but when".¹⁷

In relative terms, South Africa holds the various attributes of power; from economic, military capabilities, to ideas and value (i.e. soft power).¹⁸It is therefore critical to note that global power relations largely influence interstate relations within regional subsystems in international relations.¹⁹

Kenneth Waltz, a realist scholar, argues that,

"Both friends and foes will react as countries always have to threatened or real predominance of one among them...they will work to right the balance...the present condition of international politics [one power] is unnatural".²⁰

The apartheid inspired *"destabilization policy"* that significantly eroded regional economic growth, development, and bred poverty and corruption was abandoned in favor of the notion of *"soft power"* to promote and cultivate sustainable peace and security in Southern Africa. Unlike many countries with

¹⁶ Gilbert M. Khadiagala, 'Thoughts on Africa and the New World Order', *The Round Table* (1992), (431-450). See also Joseph Nye, 'American strategy after bipolarity', *International Affairs*, Vol. 66, 1990, pp. 513-303.

¹⁷ Claude Ake, *Democracy and Development in Africa*, The Brookings Institution, Washington D.C., 1996, pp. 136

¹⁸ Nye, J., (2002). *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone*, Oxford University Press, pp. 9

¹⁹ Christopher Clapham, *The Evolution of Africa's International Relations*; a paper written for *Africa in International Politics*, edited by Ulf Engel and Gorm Rye Olsen, Routledge, 2004

²⁰ *Opcit*, Nye, Joseph. (2002), p. 14.

comparative advantages over their immediate regions, post-apartheid South Africa had two major challenges to overcome before it could be accepted as a constructive partner by others. First, it had had a terrible apartheid legacy. In the past decades, Africa confronted the impact of colonialism, cold war's low intense conflicts, state disintegration and collapse, famines and pandemic diseases of great proportion. As a result, Africa's contribution to global trade, technological development and financial investment remains shockingly low. There are indeed many democratic deficits that still hindering rapid development of the African continent. It was within these conditions that the post 1994 South Africa formulated an African renaissance vision. It was a vision designed primarily to meet five foreign policy objectives;

- The economic recovery of Africa;
- The establishment of political democracy throughout Africa;
- The end of neocolonial relations between Africa and the world's economic powers;
- The mobilization of the people of Africa to take their destiny into their own hands, thus preventing the continent from being a place for the attainment of geopolitical and strategic interests of the world's most powerful countries; and
- Fast development of people-centered economic growth and development aimed at meeting basic needs.²¹

Pretoria understood quite clearly that these objectives were to be achieved if it constructed meaningful 'partnerships' with both African countries and the developed countries. South Africa actively used bilateral and multilateral fora to achieve its foreign policy vision of an African renaissance. However the Mandela-Mbeki governments' quickly learned that not all states in the region and their leaders welcomed the country's new found role or shared its new found enthusiasm for democracy and human rights. Equally important, some critics of South Africa's foreign policy argue that its response to democracy in the

²¹ Stremlau, J., "African Renaissance and International Relations", (Ed) Malegapuru W. Makgoba, *African Renaissance: The New Struggle*, Mafube, 1999, pp. 102/3.

region has been inconsistent with some of its foreign policy principles.²² For instance, they further argue that, despite its well-entrenched pro-democratic foreign policy, South Africa demonstrated unwillingness to speak out or intervene against some African leaders with dictatorial behavior. South Africa's response to the Zimbabwean government's undemocratic rule is a case in point. Pretoria moved cautiously in lending a leadership role in the Southern African region. As a result, South Africa's commitments to regional peace, stability, and promotion for democracy often have vacillated between activism and conservatism, idealism and pragmatism.²³

Aware of the limits to its organizational capacity and political legitimacy, South Africa prioritized Southern Africa as the pivotal area of its foreign policy. There was a need to transform South Africa's foreign policy orientation and vision to achieve the desired strategic objectives. It was therefore imperative to transform the hegemonic foreign policy. South Africa was to fully identify itself as an African country. The African renaissance vision was embraced to guide the country's engagement with fellow African countries and as well as the entire world. Upon joining the Southern African Development Community (SADC) in 1994, South Africa played a critical role in the transformation of the organization. This, it was argued, would maximize its efficiency to better meet the burgeoning security predicaments lingering in the region in the postapartheid era.

Apart from its economic components, SADC worked tirelessly to create an Organ on Politics, Defense, and Security (OPDS) in 1997 to promote regional security and common political values. One of SADC's protocols on the general conduct of

²² Venter, Denis, 'South African Foreign Policy Decision-making in the African Context', in Khadiagala, Gilbert M. & Lyons, Terence, (Eds), *African Foreign Policies: Power and Process*, Lynne Rienner Publishers, Boulder London, 2001, pp. 163.

²³ *Defending Democracy: A Global Survey of Foreign Policy Trends 1992 - 2002*, Democracy Coalition Project, South Africa, www.demcoalition.org/html/global_survey.html - 25k

elections signed in Mauritius in 2004, for instance, committed its governments to the rule of law and democratic government. There has been a gradual move to enact shared regional democratic norms and values. This culminated into SADC's Mauritius Summit of 2004, in which South Africa vigorously sponsored the signing of a protocol that guides the conduct of democratic elections in the region.

Mindful of South Africa's well-established relationship with the developed countries, the new governing elite designed a foreign policy strategy that was to enable it to, "walks on two legs". This meant that South Africa would draw the political and economic strength of developed countries to achieve its own African policy. The classical example was seen in Burundi where South Africa successfully encouraged local belligerent forces, regional, international powers to contribute meaningfully to peace and security.

In the broad African context, South Africa assumed an activist role in the African Union (AU), helping forge new interstate norms. It further collaborated with some influential African states such as Nigeria, Egypt, Algeria, and Senegal to exert shared leadership on African issues and furnish collective leadership in the international arena. Through cooperation with the Nigerian President Olusegun Obasanjo, Algeria's President Abdelaziz Bouteflika, and the Senegalese President Abdoulaye Wade, South Africa actively promoted the New Partnership for Africa's Development (Nepad). The central objective of Nepad was to promote good political and economic governance and the respect for human rights on the continent. It was also designed to be the guiding document to regulate the relationship between developed countries and Africa. South Africa's attempts to work with other African countries within multilateral structures has scored tremendous support and successes. Principally, Nepad is the continental programme that African leaders designed to stand as a pledge to themselves,

their people, and the rest of the world to encourage good governance through the upholding of democratic norms and values, respect for the rule of law, and human rights in return for foreign aid and assistance.

Pretoria has indeed increasingly become an influential role player in conflict resolution, negotiation, peace building, and peacekeeping in Africa in the postapartheid era. In recent times South Africa has employed shrewd intervention strategies and tactics to achieve its foreign policy objectives in various parts of the continent. It has intervened in Nigeria, Lesotho, the DRC, Burundi, Zimbabwe, Ivory Coast, Libya, Madagascar, Ethiopia-Eritrea conflict, Sudan, and Comoros to mention just a few. Its military has swiftly become one of the world's fastest growing troops within the United Nations' peacekeeping missions, particularly in Africa.

South Africa's Interventions in Lesotho and Zimbabwe

We now turn to the two cases of the postapartheid South Africa's interventions in the southern African region. On numerous occasions, the apartheid South Africa intervened in the domestic affairs of its neighbors in the region. However, there were vast differences between the interventions of South Africa from its apartheid past to the one during the democratic order. Under the apartheid regime, Pretoria used bully diplomatic tactics, such as military incursions, economic sanction, and the use of proxy wars to undermine smaller states in the region. Although, the postapartheid South Africa's interventions in Lesotho and Zimbabwe raised controversies, however, the strategic objectives of these interventions can not be questioned. South Africa tried with varying degrees of success particularly in Lesotho to achieve a democratic dispensation that mirrors its own internal culture of constitutionalism.

The Nature of the Interventions

South Africa shares far borders beyond the national borders with Lesotho and Zimbabwe. The common bond among these countries ranges from, culture, they all were British colonies, and their economies are intrinsically intertwined around the South African economy. While Lesotho stands as South Africa's smallest and poorest neighbor, Zimbabwe remains the second biggest economy in the region. What follows is a tale of how Pretoria intervened in its weakest and the most powerful neighbors.

South Africa's Lesotho Intervention

Lesotho is uniquely located within South Africa's geographical setting. It is a landlocked country surrounded by South Africa on all sides. The history between these two countries has produced one of the greatest dependence interstate relationships in international relations.²⁴ In 1998, junior military officers were on the verge of ceasing political power in Maseru (capital city of Lesotho) in an unconstitutional manner. South Africa intervened under the banner of SADC alongside Botswana to prevent a coup from occurring. Upon their arrival in Lesotho, South Africa's troops expected little resistance but this never happened. Instead, Basotho junior troops opened fire from a strategic position in defiance of South Africa's led SADC intervention. This resulted in scores of unnecessary deaths and massive destruction of private property and public infrastructure.²⁵

²⁴Gilbert Khadiagala, *Allies in Adversity: The Frontline States in Southern African Security, 1975 - 1993*

²⁵ Christopher Landsberg, *The Quiet Diplomacy of Liberation: International Politics and South Africa's Transition*, Jacana, 2004, pp. 164

The crisis in Lesotho started in the early 1990s. Much of the challenges faced by this tiny country emanated from its extreme poverty and a lack of an industry base. It had always depended on South Africa as it has no any other neighbor. Thirteen per cent of Lesotho's land is arable and the rest remains mountainous. There is a rich history between the two countries. Cultural links between the Basotho people in South Africa and those in Lesotho run deep. They share same language and cultural royalty and their interaction have been active regardless of the colonial and apartheid drawn geographical separation. Since Lesotho attained independence from South Africa, apartheid leaders attempted to incorporate it into South Africa. This hegemonic behavior failed as the Basotho people defended their right to sovereignty.²⁶

Postapartheid South Africa relations with Lesotho

Lesotho falls within Pretoria's foreign policy strategy and priority in the region. When South Africa was undergoing its transition, Lesotho was experiencing political upheavals. There was a serious constitutional crisis in Lesotho that had to do more with the role and functions of the monarchy. While the political crisis in Lesotho was perceived as one concerning the monarchy, the military and political parties, another factor seemed to be in play. There was massive migration of the professional class and industries from SADC countries to South Africa. This wave of deindustrialization denied poor countries such as Lesotho access to capital, skilled manpower and indeed financial investments. Coupled with the down turn of the global economy, the Lesotho state became incapable of creating sufficient jobs, alleviating poverty and developing its people. While

²⁶ Rok Ajulu, "Survival in a Rough Neighborhood: Lesotho's Foreign Policy in the Era of Globalization", (Eds) Korwa Gombe Adar and Rok Ajulu, in *Globalization and Emerging Trends in African States' Foreign Policy-Making Process: A Comparative of Southern Africa*, Ashgate, 2002, pp. 57

South Africa was celebrating the birth of a new democracy and rejoining the international community, Lesotho was in the brink of falling apart.

King Letsie staged what became known as a 'royal coup' in 1994. This event was caused by the military demanding pay rise and power. The government of Prime Minister Ntsu Mokhehle failed to respond to these demands. The entire country was thrown into serious political instability. This led the SADC region to intervene. South Africa was concerned about being perceived as a regional hegemony unilaterally using its military muscle. It therefore joined the rest of SADC, particularly Zimbabwe and Botswana, to assuage tensions in Lesotho. The main aim was to deal with the three major political constituencies in Lesotho namely, the monarchy, the political parties and the military. President Robert Mugabe, Quiet Masire, and Nelson Mandela formed what was later considered as the 'SADC Troika' in handling the constitutional crisis in the Mountain Kingdom. From 1995 to 1997 the SADC Troika dealt with a host of political issues. These range from the powers of the monarchy and the military to the need to run fresh elections in Lesotho.²⁷

South Africa facilitated numerous internal peace talks among the Basotho. Critics of Pretoria's foreign policy argue that the 'Quiet Diplomacy' in Lesotho produced limited dividends. Under SADC auspices, South Africa's constitutional judge, Pius Langa, was selected to lead a commission of inquiry concerning the election results disputes in Lesotho. The release of Judge Langa's controversial report was somehow delayed.²⁸ This delay fed into an already fragile political environment with lots of suspicions that South Africa's Deputy President Thabo Mbeki (the main negotiator) was doctoring the report in favor of the government. There was a major contestation concerning the prolonged period before the

²⁷ Opcit, Landsberg, pp 164

²⁸ Opcit, Ajulu, 65

release of the report. The main reason given was that the report was supposed to be presented to the SADC leadership before it could be given legitimacy and endorsement. When it was finally released, the Langa report rejected the opposition's reputed view that the elections were fraudulent. It however pointed to anomalies that had occurred in the run up to the elections but emphasized that they did not sufficiently necessitate a re-run of the elections. According to the report, the elections represented the will of the people.

As it were, this report opened up the floodgates to anarchy. The military and opposition parties openly challenged the authority of the government rendering it ineffective. The junior military officials arrested their senior officers providing clear signals of a coup in making. This led to the Lesotho Prime Minister calling for help from fellow SADC members to stop the unconstitutional political power take over in Lesotho.

South Africa was severely criticized for using massive force instead of the usual diplomatic channels. This became the first postapartheid South Africa's military intervention in a neighboring state. Somehow, it broke away from its original foreign policy strategy of peaceful resolution to conflicts in Africa. Critics argued that Pretoria used force in Lesotho because it wanted to protect its economic interest. For some scholars, South Africa demonstrated its regional hegemonic power to intimidate those who wanted to disturb its core interest in the region. Based on Pretoria's regional legacy, these arguments appear to make sense but it is important to look at the occurrences that followed the conflict in Lesotho. After the conflict, South Africa showed its resolve to promote constitutionalism in Lesotho as the guarantor of peace and security.

The Promotion of Constitutionalism in Lesotho

A military coup in Lesotho, for South Africa, threatened peace and stability in the southern Africa region. This was the major basis on which its military intervention was pursued and justified. However, the Lesotho military intervention, as controversial as it was, produced one of the most success stories of South Africa's diplomacy tactic in the region and in the continent. First, Pretoria entered into an intensive and inclusive Lesotho political dialogue. This brought on board the majority of the stake holders into negotiations, enabling a much needed overhaul of Lesotho's constitution and electoral laws. Second, South Africa embarked on delivering financial assistance to Lesotho's development.

Although South Africa undoubtedly lacked diplomatic tact, it later managed to achieve credibility and legitimacy as a regional custodian of peace and security. What did Pretoria do after stabilizing and arresting the political situation in Lesotho? What scholars of South Africa's foreign policy often ignore are the skillful diplomatic missions that Pretoria pursued to bring peace and security in Lesotho. There were many South African diplomatic negotiators and teams assigned to Lesotho by the Mandela government. Chief among these were Deputy President Thabo Mbeki, the Minister of Safety and Security, Sydney Mufamadi, experts in civil society and constitutional gurus.

The first move by the South African diplomats in Lesotho's peace process was to ensure that the Basotho agree on the formation of an Interim Political Authority (IPA). According to Thomas Mathoma,

“The IPA is a compromise agreement in that the ruling LCD (in full name) agreed to the holding of fresh elections within 18 months, while the opposition alliance recognized the legitimacy of the LCD government in the period leading

to new elections. The IPA is made up of two members from each of the 12 political parties in Lesotho. Its primary purpose is to ensure the holding of free and fair elections in Lesotho by creating and promoting conducive conditions and leveling the political playing field".²⁹

South Africa's diplomacy in Lesotho entered an accelerated speed the moment the Basotho agreed to the IPA idea. The relevant stake holders in Lesotho's peace process took yet another bold step to rewrite their constitution with a special focus on changing certain aspects of the electoral laws. Lesotho's electoral processes and systems were inherited from their colonial power Britain at Independence in 1966. The 'winner takes all' system prevailed throughout 1965, 1970, 1990, 1993, and 1998. In all these elections losers cried foul.³⁰ This was a major obstacle to Lesotho's democratic dispensation. South Africa's Minister of Safety and Security, Sydney Mufamadi chaired the negotiations.

Various changes were made in the electoral laws of Lesotho. Members of the IPA agreed to create space for smaller political parties in Parliament and the Senate. A system of proportional representation quite close to South Africa's electoral laws was instituted. The other fundamental agreement reached was on the management of elections. An Independent Electoral Commission (IEC) was formed. These major changes to the effective management of elections in Lesotho became a strong factor that allowed the smooth building of confidence and trust in the body politics in Lesotho.³¹

²⁹ Thomas Mathoma, 'South Africa and Lesotho - Sovereign Independence or a Tenth Province?' **South African Yearbook of International Affairs**, 1999/2000, pp. 75.

³⁰ Kataro Miti, South Africa's relations with its SADC neighbors, in (Eds) Sipho Buthelezi and Elizabeth Le Roux, *South Africa Since 1994, Lessons and Prospects*, Africa Institute of South Africa, 2002, pp. 156

³¹ Opcit, Mathoma, pp. 78

The third phase of South Africa's strategy in Lesotho was to financially underwrite the cost of the peace process as well as campaign to the international community to assist the Mountain Kingdom. There were three areas in which South Africa enhanced peace in Lesotho. First, it granted Lesotho aid and a loan to rebuild its infrastructure. Second, it encouraged the IMF and World Bank to lend Lesotho financial assistance on favorable terms. This meant South Africa became the guarantor of those loans. Thirdly, South Africa encouraged global investments into Lesotho. This included joint ventures in a variety of economic sectors. For instance, Lesotho benefited most from South Africa's booming tourism sector. Lesotho still stands to benefit in South Africa's successful 2010 World Cup bid.

In the year 2001, Lesotho went to the polls which were considered by international observer teams as representing the will of the people. These elections were free and fair. Peace returned to Lesotho. The constitutional culture has been central in accommodating losers in the elections. These changes have extended freedoms for Basotho women and other sectors of society previously in the margins of the political game in Lesotho. Today Lesotho boasts a significant number of women in Parliament, civil servants organizations and other important centers of power in their country. Lesotho has also benefited from the international community's support. The Gleneagles G8 Summit held in Great Britain in 2005 focused on poor African countries like Lesotho. Although the Basotho people deserve praise and admiration for the positive change they had achieved, it would be unfair and short sighted to discount and overlook the role Pretoria played in building a culture of constitutionalism in Lesotho. It was evident from the Lesotho crisis that the British electoral system and the constitution were designed by the colonial power as a debilitating strategy. The system itself was inherently flawed. The inclusive nature of the new constitution written by some of global constitutional experts including South Africans

managed to accommodate a broad sector of stake holders in Lesotho's body politics. The traditional leaders especially the monarchy was given ceremonial powers by becoming a constitutional monarchy. The military was retrained and kept under civil control, limiting their chances of making coups. All these was possible because South Africa was able and willing to underwrite the cost for peace, help secure favorable loans for the country, invest in its institutional building and the state capacity to manage its constitutional mandate, and more importantly help in the general run of elections.

South Africa's Intervention in Zimbabwe

When President Robert Mugabe won the 1980 Zimbabwean elections, apartheid South Africa confronted the fiercest diplomatic assault. Zimbabwe however refused to house South African exiles like Mozambique, Lesotho, and Swaziland did. Unlike these countries, Zimbabwe received minimal levels of direct destabilization, such as cross border military raids. The most form of destabilization marshaled by the apartheid regime against independent Zimbabwe was in the area of sporadic terrorists setting bombs and assassinating ANC and PAC cadres in major cities.

The other strategy applied by Pretoria was strangling the land locked Zimbabwean economy through endless disruptions of its transport systems with Mozambique. These disruptions of transport were done through the proxy war in Mozambique in which Pretoria formed and armed the Renamo rebels fighting the government of President Samora Machel in Mozambique.³²

³² Opcit, Khadiagala, pp. 177

Zimbabwe led the SADC region in their diplomatic confrontation with the apartheid regime in South Africa. President Mugabe was the main opponent of the apartheid regime in international fora such as the UN, NAM, Commonwealth, OAU, and SADCC. He strongly advocated for tough sanctions against apartheid. However, there were simultaneous events taking place in Zimbabwe. The Lancaster House constitution was designed to be a transitional constitution. It was a compromised constitution that allowed white Zimbabwe continued access to land without unlawful and non market driven exchange of land to the black majority. Further, President Robert Mugabe retained powers of the state and the presidency to deal with both internal and external security threats. In 1987, Zanu PF³³ signed an important deal with its rivalry PF Zapu which was led by Joshua Nkomo. In this historic agreement called Unity Accord, President Mugabe extended his constitutional powers to become the Executive President with two Deputies, Simon Muzenda and Nkomo. It was also a period in which President Mugabe attempted to declare Zimbabwe as a one party state. Undemocratic tendencies were starting to develop in Zimbabwe.

President Mugabe and Zanu PF suppressed both real and potential threats to his rule inside the party and among the already weakened and ineffective opposition. A culture of corruption was deliberately allowed to grow as members of Zanu PF abused state resources. The end of the cold war in 1989 to 1991 and the release of Nelson Mandela in South Africa, brought a totally new political environment in the southern African subregion. Apartheid was on its way out. The global environment defined by the cold war was also slowly ending. Zimbabwe, like most countries in the world, found itself unprepared for the “New World Order” largely defined by the US and western powers. The 1990s witnessed fundamental political and economical changes. The IMF and

³³ Zimbabwe African National Union Patriotic Front (Zanu PF) is the governing party in Zimbabwe under the leadership of President Robert Mugabe.

World Bank imposed stringent economic and political liberalization measures called Economic Structural Adjustment Programmes (ESAP). Confronted by these changes, Zimbabwe attempted to restructure its economy from state led to a more market driven one. Regrettably, these economic initiatives and political challenges pertaining to the lack of democratization triggered what was to become a permanent crisis. Global demands for democratization, human rights protection and the rule of law were spreading across the world. Undoubtedly, Zimbabwe was the champion and voice of the Frontline states in the fight against apartheid and ironically, the country it had been fighting for was rapidly transforming while it slowly deteriorated.

The Mandela Policy towards Harare

The Mandela administration relied heavily on Zimbabwe in its own southern African foreign policy calculations and strategy. The obvious reasons as alluded above are numerous. First, Zimbabwe was South Africa's largest African trading partner and had major investments in that country. Second, President Mugabe and Zimbabwe in general commended considerable respect and reputation in the region and the developing world. For South Africa to achieve its Africa policy it needed Zimbabwe's support. As important as these factors were, Pretoria found itself in malevolent diplomatic tensions with Zimbabwe. The major areas of diplomatic contentions were around questions of unfair trade and what emerged as Zimbabwe's uneasiness with South Africa's dominance within SADC. Global focus in Africa, and particularly Southern Africa was increasingly in favor of South Africa. This phenomenon was compounded by the 'saint like' image of President Nelson Mandela. Numerous scholars of African politics stated that President Mugabe disliked Mandela's tendencies of talking down on him.

In 1995, South Africa successfully failed to convince the rest of Africa to isolate and impose economic sanctions on Nigerian military dictator Sani Abacha. Zimbabwe vehemently opposed South Africa's Nigeria policy. Furthermore, President Mugabe clashed with President Mandela over SADC's Organ on Defense, Peace and Security. Mugabe who was chairing SADC at the time wanted to incorporate chairmanship of both structures in 1997. While tensions concerning SADC's organ were raging on, conflict in Zaire broke out. The collapse of Mobutu Sese Seko's government witnessed the beginning of what was considered as Africa's First World War. The new government in the Democratic Republic of Congo (DRC) of Laurent Kabila was challenged by Rwanda and Uganda. Through proxies, Rwanda and Uganda entered the DRC inviting three SADC members to come to Kabila's side. South Africa argued against military intervention at the annoyance of Zimbabwe, Namibia and Angola. To worsen the situation, South Africa had militarily intervened in Lesotho. While Zimbabwe was getting involved in military interventions in the DRC, economic strains were being felt at home by Zimbabweans. South Africa's attempt to stop Zimbabwe's military adventure in the DRC dismally failed. The Great Lake Region conflict triggered tremendous economic and political challenges domestically. South Africa took a pragmatic approach towards the Zimbabwean crisis. Under President Thabo Mbeki, South Africa worked tirelessly within regional and continental structures to find a common solution for Zimbabwe.

South Africa's Response to Zimbabwe's Constitutional Crisis

Confronted with the dilemma in Lesotho and brewing regional conflict in the Great Lakes region, Pretoria's response to the crisis in Zimbabwe became quiet diplomacy. This entailed dealing with Zimbabwean issues in closed doors without applying either economic sanctions or a call for the isolation of President

Robert Mugabe's regime. When Mugabe failed to maintain popular support due to the undemocratic rule, the suppression of the media, opposition voices, deepening poverty, domestic opposition to the war in the DRC, he exploited genuine grievances and demands for land among black majority for political purposes. The Zimbabwean liberation struggle's war veterans campaigned for financial compensations, land and political influence. President Robert Mugabe co-opted the war veterans by granting its members unbudgeted grants. He also manipulated the racial issues concerning land in which the tiny white minority controlled most of the fertile arable land in Zimbabwe. His government had deployed a strong military contingent in the DRC thereby draining scarce financial resources. The ill conceived strategies to grant war veterans and entering into a war backfired badly. The country failed to resuscitate the economy as it bled to death because of unbudgeted costs. These move triggered the worse economic crisis Zimbabwe had ever seen.

While this was taking place, drought ravaged the remaining resources the Zimbabwean state had. It had to simultaneously respond to a multiple of domestic, regional, and international issues. When the Movement for Democratic Change (MDC) was formed in opposition to Mugabe's government in 2000, Mugabe called for the first constitutional referendum. In the draft constitution, President Mugabe wanted more presidential powers to deal with the land question. When his Zanu PF lost out for the first time in Zimbabwe's post independent history, President Mugabe used state violence to suppress opposition.

The Land Crisis

The Zimbabwean government realized that losing political power through democratic elections was in sight. It embarked upon a massive diplomatic

campaign to gain financial support from its former colonial power - Great Britain. When this failed it openly encouraged the war veterans to grab land outside the law's ambit. Violence destabilized the agricultural sector, the most productive sector of the Zimbabwean economy. This exercise attracted unprecedented global media on Zimbabwe. The land grab created chaos in Zimbabwe as more white farmers were being forcefully removed from the land without proper compensation as agreed in the transitional constitution signed in 1979. There was no doubt the Zimbabwean government was under siege. It had not anticipated the level and effect of the isolation led by Britain, the US, Australia, and New Zealand.

In 2005 Zimbabweans went back to the polls to elect parliamentarians. The MDC opposition lost the elections that most of the international community believed to have been 'stolen' by President Robert Mugabe's Zanu PF party.

South Africa's Quiet Diplomacy in Zimbabwe

President Mbeki's critics have highlighted numerous weaknesses in the quiet diplomacy strategy. Perhaps chief among these weaknesses is his failure to use the carrot and stick approach to achieve South Africa's foreign policy objectives like constitutional reforms and rule of law to name a few. Therefore, quiet diplomacy although useful, created a perception of South Africa appeasing a dictator in Zimbabwe.

What has been Pretoria's solution for the deepening crisis in Zimbabwe? Throughout the beginning of Zimbabwe's economic and political crisis South Africa tried to convince the government and the MDC to enter into negotiations that would provide a basis in which the country's elections could be rerun. For Mbeki, a government of national unity in Zimbabwe would create a conducive

political environment for the country to reconcile and heal the wounds. At the same time, South Africa believes that if the constitution is rewritten, closing up most of the loopholes that create conflict such as excess power given to the president and the general management of elections, Zimbabwe will be in a better position to deal with its crisis. As much as quiet diplomacy has failed to produce a speedy resolution to the Zimbabwe crisis, it appears to be the only viable approach in light of the complexity of matters in Zimbabwe's politics. The Zimbabwean government has emptied its coffers and is seeking a loan from Pretoria. It has no sustainable avenues for financial bail outs other than South Africa. At the time of writing this paper, South Africa had clearly drawn its line in the sand on the matter of a financial loan to Zimbabwe. It unequivocally, placed a high democratic premium for any financial bail out for the cash strapped Zimbabwe. The conditions for the loan are clear. Zimbabwe was asked to embark upon an inclusive constitutional reform, repeal restrictive laws against the media, negotiate in good faith with the opposition party, and more importantly embark upon economic reform. It remains to be seen whether President Mugabe will continue defying South Africa and the international community in their call for political change in his country. It appears that there is no any other solution to Zimbabwe's crisis other than constitutional reform and the restoration of the rule of law and justice.

8. Conclusion

South Africa's Africa policy has come of age since 1994. The lessons of the first decade of freedom in South Africa demonstrated greater hope for the culture of constitutionalism. Meanwhile, Zimbabwe, like Lesotho, has challenged South Africa's Africa policy. The economic and political crisis in Zimbabwe has gone

unabated. However, South Africa managed to convince Zimbabwe to withdraw its troops from the DRC enhancing its own peace process in the Great Lakes region, the DRC and Burundi. The failure to limit the abuse of power by President Robert Mugabe has been largely due to the fact that South Africa initially avoided to be involved in a crisis that it had perceived to be one between Harare and London. President Mbeki also wanted President Mugabe's support in his African initiatives, Nepad, transformation of the then OAU to AU, South Africa's successful bid for the World Cup 2010, and lastly, a possible seat in the restructured United Nations Security Council (UNSC). In all these diplomatic initiatives South Africa needed to avoid to be seen as a regional bully and promoting-Western countries' interest in Africa. South Africa has managed to win over trust and legitimacy in Africa with minimal image bruises by its Zimbabwean policy. South Africa has applied a pragmatic policy thus allowing President Mugabe to exhaust all his diplomatic cards. Lastly, South Africa ought to learn how to effectively communicate its Africa policy. South Africa's Africa policy shows the level of commitment that South Africa has on promoting constitutionalism and democratization of the region and indeed the continent.

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